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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,280	11/12/2003	Patrick Guiney	11.037011 US	9311
41696 7590 02/11/2008 VISTA IP LAW GROUP LLP 12930 Saratoga Avenue Suite D-2 Saratoga, CA 95070				
			EXAMINER	
			HYUN, PAUL SANG HWA	
			ART UNIT	PAPER NUMBER
			1797	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/712,280

Applicant(s)

GUINEY, PATRICK

Examiner

PAUL S. HYUN

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-23, 25-43 and 51-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-23, 25-43 and 51-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/19/07 has been entered.

Claims 1-6, 8-23, 25-43, and 51-58 are currently pending.

The claim rejections under 35 U.S.C. section 112 cited in the previous Office action have been withdrawn in light of the amendments.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-6, 11, 12, 14, 15, 18-23, 29-31, 33, 34 and 36-38** are rejected under 35 U.S.C. 102(b) as being anticipated by McDevitt et al. (US 2002/0045272 A1).

McDevitt et al. disclose a portable sensor array for analyzing various sample fluids (e.g. blood, urine, saliva) (see Fig. 78 and [0552]). The sensor array comprises an array of filters 1040 for filtering the sample and a data

storage device (e.g. floppy disk drive, controller) positioned within the sensor array (see [0558] and [0569]). The data storage device can store information such as the identity of the test being conducted (see [0574]) and test instructions (see [0572]), which are information related to the filter since the type of filter to be used depends on the identity of the sample and the nature of the test being performed. The sensor array further comprises a display 1014 and buttons 1012 that function as a communications interface. Instead of using a floppy disk drive, the sensor array can transfer data to a computer using serial or parallel port connections, or even wireless links (see [0558]).

Claims **51-56** are rejected under 35 U.S.C. 102(b) as being anticipated by Ostrup (US 5,460,057).

Ostrup discloses a specimen collection unit 20 comprising a cytological filter and a bar code 29 on the filter (see Fig. 4). Information stored on the bar code comprises the identity of the sample, which would indicate whether the filter has been used (see lines 50-52, col. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **8-10 and 25-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDevitt et al. in view of Marsh et al. (US 5,219,294).

McDevitt et al. do not disclose the details of the connection between the sensor array and a computer. However, it does disclose that the sensor array can be connected to a computer system via serial or parallel port connections (see [0558]).

Marsh et al. disclose a parallel port connector for connecting two electrical devices (e.g. computer and printer). The connector comprises a symmetrical recess comprising tapered surfaces 38a and 38b to ensure a solid physical connection (see Figs 1 and 6 and line 51, col. 3). In light of the disclosure of Marsh et al., it would have been obvious to one of ordinary skill in the art to provide the sensor array disclosed by McDevitt et al. with the connection disclosed by Marsh et al. so that the sensor array can send and receive data from a computer.

Claims **13 and 32** are rejected under U.S.C. 103(a) as being unpatentable over McDevitt et al. in view of Giordano et al. (US 5,935,426).

McDevitt et al. do not disclose that the data comprises the expiration of the filter. However, the reference does disclose that the controller can store information related to scheduled maintenance (see [0570]).

Giordano et al. disclose a filter-based apparatus for filtering and treating water. The apparatus comprises a data storage unit 36 that stores data related to the filter, such as the expiration date of the filter (see lines 55-60, col. 13). In light

of the disclosure of Giordano et al., it would have been obvious to one of ordinary skill in the art to add the expiration date of the filter to the data storage means of the McDevitt et al. apparatus so that expired filters are not used for conducting experiments.

Claims **16, 17, 35, 39-43, 57 and 58** are rejected under 35 U.S.C. 103(a) as being unpatentable over McDevitt et al.

With respect claims 16 and 35, it is well known in the art that most electronic products such as computers are assigned a universal product code or other forms of product identification number to facilitate the identification of the product. Therefore, it would have been obvious to assign a unique registration number to the data storage means of the sensor array so that it can be easily identified in case that it has to be replaced.

With respect to claims 17 and 43, given that the sensor array disclosed by McDevitt et al. is intended to process blood samples, which contain blood cells, it would have been obvious to one of ordinary skill in the art to use a cytological filter. It should be noted that the fact that the claims recite the intended use of the filtered material (i.e. "for collecting and examining cells of the biological specimen") does not further limit the scope of the claims. Although McDevitt et al. do not explicitly disclose that the filtered cellular material is examined, the filters disclosed by McDevitt et al. are capable of enabling examination of the filtered cellular material.

With respect to claims 39-42, McDevitt et al. do not disclose vials for collecting the sample. However, the reference does disclose that the sample can be collected in a syringe 1030, which can be accommodated by the sensor array to facilitate the introduction of the sample into the sensor array. That said, it would have been obvious to one of ordinary skill in the art to use other containers, such as vials, for storing and delivering the sample into the sensor array. With respect to the code on the vial, McDevitt et al. disclose the use of bar codes for identifying cartridges inserted into the sensor array (see [0573]). It would have been obvious to one of ordinary skill in the art to place a bar code on the vial so that information related to the sample (e.g. date and location where the sample was collected) can be relayed to the sensor array.

With respect to claims 57 and 58, McDevitt et al. do not disclose filters having a cylindrical shape. However, the reference does disclose an alternative embodiment of a sensor array comprising sample cavities/ports wherein the shape of the cavities/ports can comprise various shapes (see [0121]). In light of the disclosure, it would have been obvious to one of ordinary skill in the art to make the filters disclosed by McDevitt et al. cylindrical in shape to accommodate the shape of cylindrical fluid ports.

Response to Arguments

Applicant's arguments with respect to the art rejections have been considered but are moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL S. HYUN whose telephone number is

(571)272-8559. The examiner can normally be reached on Monday-Friday 8AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Paul S Hyun/
Examiner, Art Unit 1797

/Jill A. Warden/
Supervisory Patent Examiner, Art Unit 1797